



Legal Update

May 23, 2013

Mutual Aid

Based on a mutual aid agreement with a neighboring town, it was lawful for a police officer to initiate a stop outside of his jurisdiction to ensure the safety of the public.

Commonwealth v Bartlett, SJC, No. SJC-11187 (2013)

Background: On August 26, 2009, Officer Sciacca from the Merrimac Police Department was on patrol in Merrimac when he crossed the town line into Amesbury. As Officer Sciacca was returning to Merrimac, which was less than a mile away, he observed a vehicle in front of him "cross the double yellow line, return to the travel lane, and then cross the "fog line" on the right side of the road." Officer Sciacca followed the vehicle for a half mile in Amesbury, continually observing the vehicle driving erratically. When the vehicle pulled into a parking lot, Officer Sciacca used his cruiser to block the vehicle from leaving. Officer Sciacca alerted the Amesbury police, the "host community," that he had initiated a traffic stop. Before the Amesbury police arrived, Officer Sciacca asked the driver who was identified as Gregory Bartlett (hereinafter referred to as "Bartlett") for identification and observed Bartlett to be impaired. Officer Sciacca also noted that Bartlett's eyes were visibly watery and bloodshot and he smelled of alcohol while "fumbling with his wallet." When Amesbury police arrived, they administered field sobriety tests to Bartlett and arrested him for Operating Under the Influence of Alcohol. Bartlett filed a motion to suppress arguing that Officer Sciacca lacked authority to stop Bartlett outside of his jurisdiction.

The motion was denied because the judge concluded that Officer Sciacca's actions were reasonable because of an "immediate response or action for the good of public safety," and that the extraterritorial stop was lawful under G.L. c. 37, § 13(transferred authority) and not based

upon the mutual aid agreement. Bartlett was convicted of Operating while Under the Influence of Alcohol, fifth or subsequent offense and he appealed his convictions based on the denial of his motion to suppress.

Conclusion:

The SJC held that when a mutual aid agreement is in place between jurisdictions under G.L. c. 37, § 13, an officer has full police powers in that other jurisdiction when “circumstances arise dictating an immediate response or action for the good of public safety.” In this case, the SJC found that Officer Sciacca’s actions were valid based upon the mutual aid agreement. Officer Sciacca followed the parameters of the agreement by notifying the Amesbury police, “the host community as soon as practically possible,” that he initiated a traffic stop. “If no mutual aid agreement was in place at the time, police action may be justified when an officer is acting to preserve the peace.” However, based on the facts in *Bartlett*, the SJC concluded that G.L. c. 37, § 13 (transferred authority) did not apply because there was no request for authority made to the Amesbury police before the stop.

Commentary:

Bartlett establishes that mutual aid stops are lawful to ensure public safety when police conduct an extraterritorial stop in accordance with the mutual aid agreement that was in place between Merrimac and Amesbury police. Since mutual aid agreements can vary, it is important that officers understand what authority and procedures they must follow if they initiate an extraterritorial stop.